



United States
Department of
Agriculture

Rural Development
Rural Housing Service
Rural Business-Cooperative Service
Rural Utilities Service

655 Parfet Street, Room E-100
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February 5, 2003
Colorado AN No. 1876 (HB-1-3550)

**SUBJECT: Rural Housing Applicant's Legal Capacity
to Incur a Loan/Grant Obligation**

TO: USDA/Rural Development
Single Family Housing, Colorado

Purpose/Intended Outcome:

The purpose of this Administrative Notice is to provide the field staff with information concerning State law requirements as it relates to this subject topic.

Comparison With Previous AN:

This AN replaces Colorado AN 1811 (HB-1-3550), which expired January 31, 2003.

Implementation Responsibilities:

Handbook 3550, the Fair Housing Act, and the Americans with Disabilities Act of 1990, require that reasonable accommodations be given to an individual who is developmentally disabled so that he/she has the opportunity to become a successful homeowner. Reasonable accommodations can include a court appointed conservator whose powers may be broad enough to authorize the signing of the application and closing documents for a developmentally disabled person.

In Colorado, OGC has advised that State law provides for the protection of a person with a disability by the court appointment of a conservator. Such conservator may have near complete power to handle the protected person's affairs or their power may be specific and limited.

EXPIRATION DATE:
February 28, 2004

FILING INSTRUCTIONS:
HB-1-3550, Appendix 7

A conservator may execute the required loan documents with Rural Development on behalf of the protected person. However, to ensure that Rural Development is dealing with an authorized person, field staff should always request a copy of the document which shows the appointment of the conservator. This document should include the court's statement regarding the powers transferred to the conservator. This is particularly important in Colorado as State law does allow for the concept of limited conservatorship. Any limitations on the conservator's powers may prohibit them from signing any obligation or closing documents on behalf of the applicant.

Since it is necessary for the title company to issue a mortgagee's title insurance policy insuring that Rural Development has a valid and enforceable deed of trust lien, it will be imperative that the title company review the court order appointing the conservator and any other documents the title company representatives may require in order to insure the validity of Rural Development's lien without any exception. Therefore, it is recommended that (1) any loan commitment involving a developmentally disabled person provide that approval and closing of the loan is subject to the approval by the title company of the conservatorship 92) the court approving the conservator be provided to the title company for review prior to or at the time of requesting the title commitment.

If assistance is needed in reviewing any court document related to conservatorship, please refer it to the Single Family Housing Section.

GIGI DENNIS
State Director